IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

IN RE:	§	
	§	
CYRUS II PARTNERSHIP,	§	**(Chapter 7)**
BAHAR DEVELOPMENT, INC.,	§	**Jointly Administered**
and MONDONA RAFIZADEH,	§	**CASE NO. 05-39857-H1-7**
	§	
Debtors.	§	
	§	
	§	
RODNEY D. TOW, AS THE CHAPTER	§	
TRUSTEE FOR CYRUS II, L.P., ***ET. AL.***	§	
	§	
Plaintiffs,	§	
	§	
v.	§	**ADVERSARY NO. 07-03301**
	§	
SCHUMANN RAFIZADEH, ***ET. AL.***	§	
	§	
Defendants.	§	

PLAINTIFFS' MOTION FOR EXTENSION OF TIME TO RESPOND TO DEFENDANT WELLSPRING SOURCING CO., LIMITED'S MOTION TO DISMISS FOR ALLEGED INSUFFICIENCY OF PROCESS AND SERVICE OF PROCESS
[related to docket no. 538]

Rodney D. Tow, Chapter 7 Trustee of the above-referenced, jointly-administered bankruptcy cases (the "Trustee") and ORIX Capital Markets, LLC, as special servicer for the 1999 MLMI C-1 Trust, creditor ("ORIX") (collectively, the "Plaintiffs") jointly file this their Motion for Extension of Time to Respond to Wellspring Sourcing Co., Limited's Motion to Dismiss for Insufficiency of Process and Service of Process (docket no. 538) (the "Motion to Dismiss"), and would respectfully show the Court the following:

I. INTRODUCTION

1. Defendant Wellspring Sourcing Co., Limited ("Wellspring") has moved the Court to dismiss the Plaintiffs' claims based on alleged deficiencies with the personal service made on Wellspring at its registered offices in Hong Kong by a personal (private) process server. The

Plaintiffs seek a short extension of time to file their Response to the Motion to Dismiss (the "Response") and a continuance of any hearing on the Motion to Dismiss challenging the manner of service effected in Hong Kong on Wellspring, because the Plaintiffs are on the verge of effecting personal service in the United States on Vafa Motlagh as Wellspring's director.

2. In the interests of judicial economy and cost-efficiency, a short extension of the time for the Plaintiffs to file a Response and, consequently, a delay of any hearing on the Motion to Dismiss is warranted. This is particularly so based on recent events and the Court's order applicable to this issue. Specifically, on May 1, 2008, the Court ordered Vafa Motlagh, a United States citizen, to appear within twenty-one (21) days to give his deposition in Houston, Texas regarding the business and financial affairs of Defendant Universal Sourcing, LLC, a United States company wholly owned by Mr. Motlagh. While Mr. Motlagh is present in the United States, the Plaintiffs will arrange for him to be personally served with a summons and the live pleadings (Amended and Supplemental Complaint), both in his individual capacity and as Wellspring's representative. The Plaintiffs' counsel have already contacted Barnet B. Skelton, Jr., counsel for both Universal Sourcing and Wellspring, to provide notice of the Plaintiffs' desire to serve Mr. Motlagh with process and to arrange for this service to take place in an orderly and non-confrontational manner.

3. Wellspring filed its Motion to Dismiss on April 24, 2008, and thus, the Plaintiffs' Response is currently due May 17, 2008. Pursuant to the Court's Order of May 1, 2008, Mr. Motlagh will have to submit himself for deposition in Houston by May 22, 2008, and the Plaintiffs will effect personal service on Wellspring in the United States on or before that date.

The Plaintiffs are therefore seeking a brief extension[1] for the Plaintiffs' to file the Response and for any hearing on the Motion to Dismiss to take place thereafter. A brief extension will serve to moot the issues and objections raised by the Motion to Dismiss.

II. FACTUAL AND PROCEDURAL BACKGROUND

4. On June 27, 2005, Mondona Rafizadeh, Cyrus II, L.P. ("Cyrus II") and Bahar Development, Inc. ("BDI") (collectively, the "Debtors") filed voluntary petitions for relief under Chapter 7 of the United States Bankruptcy Code in the U.S. Bankruptcy Court for the Southern District of Texas, Houston Division (the "Court").

5. The Chapter 7 bankruptcy cases of Mondona Rafizadeh, Cyrus II, and BDI are jointly administered under Case No. 05-39857. The Trustee was appointed the Chapter 7 Trustee for all of the Debtors' bankruptcy estates ("Estates").

6. On June 21, 2007, the Plaintiffs filed their Verified Original Complaint and Request for Injunctive Relief (the "Complaint") against twenty-six (26) defendants, including Wellspring.[2] Vafa Motlagh is a shareholder and director of Wellspring.

7. On June 25, 2007, an original summons was issued by the District Clerk for service on Wellspring in this Adversary Proceeding.

8. On August 23, 2007, this Court entered its order enlarging the time for Wellspring to answer the Complaint to thirty days from the date of service of the Complaint and summons.

9. On October 18, 2007, the Plaintiffs properly served Wellspring at its registered offices in Hong Kong through a personal process server.

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[1] The Plaintiffs' counsel advised Universal Sourcing's counsel that the Plaintiffs will agree to a brief extension of the 21 days provided by the Court's Order for the deposition in order to accommodate the witness's travel schedule as a result of a national holiday that takes place in China during May.

[2] The original complaint identified Wellspring as Wellspring Sourcing, Inc.

10. On April 9, 2008, the Plaintiffs filed their motion for default judgment against Wellspring. (docket no. 516).

11. On April 24, 2008, Wellspring filed its Motion to Dismiss for Insufficiency of Process and Service of Process. (docket no. 538).

12. On May 1, 2008, this Court ordered Vafa Motlagh to appear in Houston, Texas for his deposition within twenty-one days of the May 1 hearing.

III. REQUEST FOR RELIEF

13. The Plaintiffs request that this Court extend the deadline for Plaintiffs to respond to the Motion to Dismiss to a date after May 30, 2008, and to hold any hearing on the Motion to Dismiss on a date thereafter, to afford the Plaintiffs the opportunity to personally serve Vafa Motlagh and Wellspring, through Vafa Motlagh, in the United States. While the Plaintiffs continue to assert that their service of Wellspring was valid and proper, in the interest of conserving the Court's resources, Plaintiffs request this extension of time to attempt service of Wellspring in a manner that no party will dispute.

IV. PRAYER

WHEREFORE, PREMISES CONSIDERED, the Plaintiffs request that this Court (i) extend the deadline for the Plaintiffs to respond to Wellspring Sourcing Co., Limited's Motion to Dismiss for Insufficiency of Process and Service of Process; (ii) set any hearing for a date thereafter; and (iii) grant all such other and further relief, both at law and in equity, to which the Plaintiffs may be justly entitled.

DATED May 9, 2008.

Respectfully submitted,

DIAMOND McCARTHY LLP

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CERTIFICATE OF CONFERENCE

The undersigned certifies that, on May 8, 2008 at approximately 5:00 p.m., counsel for the Plaintiffs emailed Barnet Skelton, Jr., counsel for Wellspring Sourcing Co., Limited, to confer with him regarding the matters raised in the Plaintiff's Motion for Extension of Time. Counsel for Wellspring Sourcing Co., Limited has not indicated his position on this motion.

/s/ Ladd A. Hirsch
Ladd A. Hirsch

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the Motion for Extension of Time has been served to the parties on the attached service list either via electronic means as listed on the ECF noticing system on May 9, 2008 or via United States first class mail, postage prepaid, on May 9, 2008.

/s/ Lynn Chuang Kramer
Lynn Chuang Kramer

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